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Conference of the States Parties to the United Nations Convention against Corruption

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Item 2 (a) (i) of the provisional agenda*

Implementation of Conference resolution 5/4, entitled "Follow-up to the Marrakech declaration on the prevention of corruption", and of the recommendations made by the Working Group at its meeting held in September 2014: good practices and initiatives in the prevention of corruption

Measures to prevent money-laundering (article 14 of the United Nations Convention against Corruption)

Note by the Secretariat

I. Introduction

1. In its resolution 5/4, the Conference of the States Parties decided that the Open-ended Intergovernmental Working Group on the Prevention of Corruption should continue its work to advise and assist the Conference in the implementation of its mandate on the prevention of corruption and should hold at least two meetings prior to the sixth session of the Conference, to be held in 2015. At its second meeting, held in Vienna from 22 to 24 August 2011, the Working Group recommended that in advance of each future meeting of the Working Group States parties should be invited to share their experiences of implementing the provisions under consideration, preferably by using the self-assessment checklist and including, where possible, successes, challenges, technical assistance needs and lessons learned in implementation. The Working Group requested the Secretariat to prepare background papers synthesizing that information and decided that panel discussions should be held during its meetings, involving experts from countries who had provided written responses on the priority themes under consideration.

* CAC/COSP/WG.4/2015/1.

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2. The Conference further decided that the Working Group shall continue to follow the multi-year workplan, in accordance with which, the Working Group, at its meeting held in September 2014, decided that its sixth meeting would focus its attention on the following topics:

(a) Measures to prevent money-laundering (article 14 of the United Nations Convention against Corruption);

(b) Integrity in public procurement processes and transparency and accountability in the management of public finances (articles 9 and 10 of the Convention).

3. At its second meeting, held in Vienna from 22 to 24 August 2011, the Working Group recommended that in advance of each future meeting of the Working Group States parties should be invited to share their experiences of implementing the provisions under consideration, preferably by using the self-assessment checklist and including, where possible, successes, challenges, technical assistance needs and lessons learned in implementation. The Working Group requested the Secretariat to prepare background papers synthesizing that information and decided that panel discussions should be held during its meetings, involving experts from countries who had provided written responses on the priority themes under consideration.

4. In compliance with the request of the Conference, the present note has been prepared on the basis of information relating to the implementation of article 14 of the Convention provided by States in response to the Secretary-General's note verbale CU 2015/58/DTA/CEB of 10 March 2015 and the reminder note verbale CU 2015/97(A)/DTA/CEB of 24 April 2013.[1] By 29 May 2015, submissions had been received from 30 States. The submissions from the following 28 States contained information relating to the topic of measures to prevent money-laundering (article 14): Algeria, Argentina, Armenia, Austria, Bahrain, Belgium, Czech Republic, Cyprus, Ecuador, Egypt, El Salvador, Germany, Honduras, Kuwait, Lebanon, Malaysia, Mexico, Oman, Philippines, Portugal, Republic of Moldova, Russian Federation, Spain, State of Palestine, Switzerland, Turkey, United States of America and Uruguay.

5. With the agreement of the countries concerned, the full text of the submissions have been made available on the page of the United Nations Office on Drugs and Crime (UNODC) website devoted to the meeting[2] and will also be incorporated into the thematic website of the Working Group developed by the Secretariat.[3]

6. In accordance with resolution 5/4, the Secretariat also sought inputs from the private sector in relation to the topics under consideration at the present meeting of the Working Group. No submissions from the private sector were received by the deadline.

7. The present note does not purport to be comprehensive, but rather endeavours to provide a summary of the information submitted by States parties and signatories.

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[1] An account of good practices in the area of integrity in public procurement processes and transparency and accountability in the management of public finances in the context of articles 9 and 10 of the Convention is provided in a separate note by the Secretariat (CAC/COSP/WG.5/2015/1).

[2] www.unodc.org/unodc/en/treaties/CAC/working-group4.html.

[3] www.unodc.org/unodc/en/corruption/WG-Prevention/working-group-on-prevention.html.

II. Analysis of submissions of States parties and signatories

A. Thematic background

8. Article 14 of the United Nations Convention against Corruption sets out a number of measures — some mandatory and some strongly recommended — that are intended to ensure that States parties have in place a legal and administrative framework to deter and detect money-laundering. The overall objective is to provide a comprehensive regime that facilitates the identification of money-laundering activity and promotes information exchange among a range of competent authorities to combat money-laundering.

9. A key element in the fight against money-laundering is the involvement of financial institutions and other bodies susceptible to money-laundering in preventing the introduction of ill-gotten funds into the financial system, in detecting suspicious transactions and in facilitating the tracing, freezing and confiscating the funds involved in such transactions.[4] In line with article 14 of the Convention, States must require their financial institutions and other relevant bodies to follow specific due diligence measures, including "know-your-customer" measures,[5] record-keeping[6] and reporting suspicious transactions to national authorities. These procedures need to be part of a comprehensive regulatory and supervisory regime that, in addition to the prevention of money-laundering, facilitates the required domestic and international cooperation.

10. Coordination of efforts and international cooperation are central to addressing the problem of money-laundering. Article 14, paragraph 1 (b) therefore requires that administrative, regulatory, law enforcement and other domestic authorities responsible for the prevention and detection of money-laundering are able to cooperate at both the national and international levels. This includes the exchange of information within any conditions prescribed by their domestic law. Such cooperation should not limit or detract from (or in the words of the Convention, "without prejudice to") the application of article 46 (mutual legal assistance).

11. As part of an effective anti-money-laundering regime, and as referred to in article 14, paragraph 1 (b),[7] many States have established financial intelligence units to collect, analyse, disseminate and exchange relevant information efficiently. The structures, responsibilities, functions, departmental affiliations and independence of such units vary and States can adopt a model that best suits their legal, constitutional, and administrative arrangements. The Convention does not

[4] Articles 31, 46, 52, 57 and 58 of the Convention, concerning the freezing, seizure, confiscation and disposal or return of proceeds from offences established under the Convention, the collection of information and international cooperation, are relevant in this regard.

[5] The "know-your-customer" rule, a well-established principle of prudential banking law, is the cornerstone of the preventive obligations. Starting from a simple formal identification rule, it proved to be a very dynamic concept whose ultimate developments are reflected in detail in article 52 of the Convention.

[6] In this regard, States parties may consider extending the record-keeping obligation for transactions carried out by the persons mentioned in article 52 of the Convention.

[7] Article 14, paragraph 1 (b) of the Convention should be read in conjunction with article 58 which also makes specific reference to financial intelligence units. For further information, please see CAC/COSP/WG.2/2013/2.

require that a financial intelligence unit be established by law, but legislation may still be required to require financial institutions to report suspicious transactions to such a unit and to protect financial institutions that disclose such information in good faith from legal action.

12. In order to develop capacity to cooperate internationally, States are required by article 14, paragraph 2, to consider the introduction of practical measures to monitor the cross-border movement of cash and other monetary instruments. The goal of these measures is to allow States to detect and monitor the movement of cash and negotiable instruments across their borders, subject to safeguards to ensure proper use of information and without impeding the legitimate movement of capital. In practice, countries can implement those measures through a declaration system which requires all persons making a physical cross-border movement of cash and other monetary instruments, which are of a value exceeding a pre-set threshold, to submit a declaration to the designated competent authorities, and/or disclosure system which requires travellers to provide the authorities with appropriate information upon request.

13. Paragraph 3 of article 14 recommends that States parties consider implementing appropriate and feasible measures to require financial institutions, including money remitters: (a) to include on forms for the electronic transfer of funds and related messages accurate and meaningful information on the originator; (b) to maintain such information throughout the payment chain; and (c) to apply enhanced scrutiny to transfers of funds that do not contain complete information on the originator.

14. The Convention further builds on related international initiatives to combat money-laundering. In establishing a domestic regulatory and supervisory regime, paragraph 4 calls on States parties to use the relevant initiatives and standards of regional, interregional and multilateral organizations against money-laundering[8] as a guide.

15. Finally, paragraph 5 of article 14 requires that States endeavour to develop and promote global, regional, subregional and bilateral cooperation among judicial, law enforcement and financial regulatory authorities in order to combat money-laundering.

B. Measures adopted by States to establish a comprehensive domestic regulatory and oversight regime to deter and detect money-laundering

16. All States parties that provided submissions reported that they had established a comprehensive domestic regulatory and oversight regime to prevent and detect

[8] During the negotiations on the Convention, the words "relevant initiatives of regional, interregional and multilateral organizations" were understood to refer in particular to the Forty Recommendations and the Eight Special Recommendations of the FATF, as revised in 2003 and 2001, respectively, and, in addition, to other existing initiatives, such as the Caribbean Financial Action Task Force, the Commonwealth, the Council of Europe, the Eastern and Southern African Anti-Money-Laundering Group, the European Union, the Financial Action Task Force of South America against Money Laundering and the Organization of American States (A/58/422/Add.1, para. 21).

money-laundering. In accordance with the Convention, most States described their regimes as requiring, as a minimum, that banks and non-bank financial institutions implement effective customer identification, accurate record-keeping, and a mechanism for detecting and reporting suspicious transactions.

Regulatory and supervisory regime

17. With regard to the institutional anti-money-laundering framework, many States have established general regulatory and supervisory bodies with responsibility for imposing standards of conduct on financial institutions, such as banks, insurance companies, securities firms and currency exchanges. Many countries have also given those regulatory bodies the responsibility of imposing measures that are designed to prevent the laundering of proceeds of crime. However, some States have allocated this task to a separate body (see sect. C. below), thereby concentrating the expertise on the laundering of proceeds of crime in one dedicated body.

18. The United States, for example, reported that there were a large number of regulatory authorities responsible for anti-money-laundering and counter-terrorism financing (AML/CFT) supervision at the federal, state and industry level. In addition to federal regulators, much of the regulation and supervision is also done at the state level, especially for some financial services, corporate registries, and gaming. There were also self-regulatory organizations for some industries, some of which (such as the Financial Industry Regulatory Authority and the National Futures Association) overlay and act in concert with federal and state regulators. In addition, the United States noted that there were regulatory bodies that regulate professions, such as state bar associations that regulate lawyers. The first and most comprehensive American federal AML/CFT statute, the Bank Secrecy Act, authorized the Secretary of the Treasury to issue regulations requiring banks and other financial institutions to take a number of precautions against financial crime, including the establishment of anti-money-laundering programmes, the filing of reports and the keeping of records that have been determined to have a high degree of usefulness in criminal, tax, and regulatory investigations and proceedings, and certain intelligence and counter-terrorism matters.

19. Malaysia indicated that the Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001 was the primary statute governing this regime in Malaysia. The Act criminalized money-laundering and terrorism financing and set out the measures to be undertaken for the prevention of money-laundering and terrorism financing.

20. In Portugal, the National Council of Financial Supervisors was set up in 2000 to enhance cooperation, including cooperation in money-laundering prevention, between the three supervisory authorities, namely the Central Bank, the Portuguese Insurance Institute and the Securities Market Commission. Portugal reported that the Council facilitated and coordinated information exchange between the three supervisory authorities, promoted the development of supervisory rules for financial institutions, formulated proposals for the coordination of efforts where supervisory activities performed by the various supervisory bodies overlap, and promoted the establishment or adoption of coordinated policy measures with foreign entities and international organizations.

21. Argentina reported that it had established a dual system of supervision of regulated entities: the supervisory regime in the financial, securities and insurance sectors was structured based on oversight by the financial intelligence unit in collaboration with the respective specific regulatory bodies. Supervision of the remaining sectors was based on the recommendation of a "committee of selectivity based on risk", made up of officials of the financial intelligence unit, to the president of the unit on which sectors should be supervised and established supervisory procedures to be followed based on the level of risk presented by those particular sectors.

22. In Switzerland, the money-laundering preventive system provided for due diligence duties, whether in the banking or para-banking system, in terms of the obligation to identify the beneficial owners, including legal persons, the source of funds and additional clarifications for business relationships involving politically exposed persons. Financial intermediaries were also required to report suspicious transactions to the financial intelligence unit, which is attached to the Federal Police Office. It was noted that this unit analysed suspicious transactions reports and transmitted the information to the prosecuting authorities.

23. The Philippines noted that the government agencies primarily responsible for implementing money-laundering preventive measures and for monitoring compliance offered anti-money-laundering training to various stakeholders, including salesmen and associated persons and compliance officers of broker-dealers. In 2013, the Anti-Money Laundering Council conducted a total of 298 seminars for various stakeholders, law enforcement agencies, academia and the private sector. An additional 50 seminars were delivered to the compliance officers of covered institutions on the reporting procedures, including guidance on the electronic submission of covered and suspicious transaction reports.

24. In Turkey, it was reported that the levels of compliance of "obliged parties" listed in the Regulation on Measures Regarding Prevention of Laundering Proceeds of Crime and Financing of Terrorism were monitored annually and supervised by the financial intelligence unit of Turkey. Supervision of "obliged activities" was based on annual supervision programmes or individual compliance inspections and was carried out by inspectors drawn from "Tax Inspectors, Customs and Trade Inspectors, Sworn-in Bank Auditors, Treasury Comptrollers, Insurance Supervisory Experts and Actuaries, Banking Regulation and Supervision Agency personnel and Capital Markets Board Experts". The sectors to be supervised annually were selected by the financial intelligence unit after consulting with the relevant regulatory and supervisory authorities.

25. Algeria reported that the Banking Commission ensured that banks and financial institutions have appropriate anti-money-laundering policies and procedures and could open a disciplinary action against non-complaint entities. In Bahrain, the Central Bank supervised the entire financial sector, including Bahrain's financial markets and the insurance sector. The Bank also had a sanctioning power in case of non-compliance. Inspectors of the Bank conducted on-site and off-site examinations to ensure, inter alia, proper implementation of the money-laundering preventive measures.

26. In Lebanon, the Special Investigation Commission, the financial intelligence unit, was also a regulatory and supervisory authority with regard to

money-laundering preventive measures. Egypt highlighted that, in addition to the financial intelligence unit, different authorities supervised the proper implementation of money-laundering measures in different sectors.

27. In Kuwait, the Central Bank, the Ministry of Trade and Industry and the Financial Market Authority were identified as the supervisory authorities which conduct onsite compliance examinations to ensure proper implementation of the money-laundering measures by relevant entities. The anti-money-laundering legislation further provided for financial penalties in case of non-compliance, which could be imposed without prejudice to any criminal sanctions.

28. In the State of Palestine, the Anti-Money-Laundering Law no. 7 of 2007 provided for money-laundering preventive measures to be implemented by financial institutions and a number of non-financial institutions, and tasked the Monetary Authority and the Financial Intelligence Unit with the task of supervising the proper implementation of such measures.

Institutions and activities subject to preventive anti-money-laundering obligations

29. The Convention requires States parties to extend preventive anti-money-laundering obligations to banks, non-bank financial institutions (e.g. insurance companies and securities firms) and, where appropriate, other bodies that are especially susceptible to money-laundering (art. 14, para. 1 (a)).[9] In compliance with the Convention, most States have extended their regimes to apply not only to banking institutions, but also to areas of commerce or service where high turnover and large transaction volumes make money-laundering more likely.

30. Due to the fact that money-laundering activities have taken place in the real estate sector and in the trade of commodities such as gold and precious metals and stones, in many countries the list of institutions has been expanded beyond financial institutions to include so-called "designated non-financial businesses and professions", as understood in the Financial Action Task Force (FATF) Recommendations.[10] For example, Cyprus stated that pursuant to its Prevention and Suppression of Money Laundering Activities Law, a number of financial institutions, organizations and professional bodies, including banking institutions, cooperative institutions, providers of money transfer services, stockbroking firms, private collective investment schemes, insurance companies, accountants/auditors, lawyers (in certain circumstances), real estate agents, dealers in precious metals and precious stones/jewellers, and trust and company service providers were obliged to comply with the law in order to assist in combating money-laundering.

[9] To make the best use of the anti-money-laundering regime in place at financial institutions in supporting asset recovery efforts, article 52 complements the relevant provisions of article 14 by putting an emphasis on a risk-based approach and a focus on individuals who are or have been entrusted with prominent public functions (known as "politically exposed persons") and their family members and close associates. For more information, please see CAC/COSP/WG.2/2014/2.

[10] The FATF Recommendations: International Standards on Combating Money Laundering and the Financing Of Terrorism & Proliferation, 2013: www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF_Recommendations.pdf. See, in particular, Recommendation 1 and the General Glossary.

31. Turkey reported that, in addition to financial institutions, many non-financial institutions and professions were identified as "obliged groups". These non-financial obliged groups included the designated non-financial businesses and professions as defined in the FATF recommendations' general glossary (except trusts and casinos which were not operating in Turkey), as well as other obliged groups such as cargo companies, vehicle dealers, dealers and auctioneers of historical artefacts, lotteries, betting and sport clubs and the Directorate General of the Turkish Mint.

32. In Uruguay, in addition to those entities under the control of the Central Bank of Uruguay, other entities and activities were required to report suspicious transactions, including casinos, real estate companies and other intermediaries in transactions involving property, scribes, auctioneers, people engaged in buying and selling antiques, works of art and precious metals and stones, operators of free zones, and people who routinely administer commercial companies on behalf of third parties.

33. Switzerland reported that non-financial businesses and professionals were not treated as separate sectors but rather were subject to due diligence requirements according to the particular class and type of professional financial intermediation performed. The due diligence requirements imposed on financial intermediaries were contained in the federal law dealing with the fight against money-laundering and financing of terrorism in the financial sector which provided a non-exhaustive list of financial intermediary activities that were subject to the law.

34. A number of States, such as El Salvador, Honduras, Mexico, the Philippines and Portugal, pointed out that formal remitters and informal value-transfer systems, such as *hawala* and *hundi*, were subject to a regulatory regime for the purpose of detecting money-laundering, terrorist financing and other offences.

Minimum requirements for regulated institutions or activities

35. Several States highlighted their legal provisions which required the identification of persons or entities with whom financial relationships were established, keeping original records of financial transactions, and reporting suspicious transactions. Some countries noted in this regard the importance of adopting policies and procedures for the acceptance of new clients, the management and evaluation of risks of money-laundering and terrorist financing, and a periodic update and review of such processes.

36. As an example, Austria reported that, in addition to the identification of the customer, the beneficial owner, the trustee and the trustor, reporting entities were required to obtain further background information on the business relationship and to monitor transactions applying a "risk-based approach".

37. In Kuwait, financial institutions and designated non-financial businesses and professions were required to establish appropriate procedures to identify and evaluate the risks of money-laundering and terrorism financing presented by various types of financial activity and then to manage these risks and to limit their effects. Such activities specifically related to clients, the countries or areas where the clients carried out their businesses or were the source or destination of transactions, the nature of the products and services, and the methods by which products and services were provided.

The preventive principles of "know your customer" and "know your beneficial owner"

38. Many States referred to the requirement for customer identification entailing the need for holders of accounts in financial institutions and other parties to financial transactions to be identified and documented. Several States emphasized that records should contain sufficient information to identify involved parties, the nature of the transaction, specific assets and the amounts or values involved and to permit the tracing of the source and destination of all funds or other assets.

39. Kuwait and Egypt indicated that their laws against money-laundering and financing of terrorism prohibited banks and institutions from opening or retaining any anonymous accounts or accounts under a false name.

40. The Russian Federation noted that special attention was being paid to the prevention of the spread of shell companies and illegal schemes to register legal entities using false identification.

41. With regard to the identification of beneficial owners, Cyprus pointed out that, according to its Prevention and Suppression of Money Laundering Activities Law, there was an obligation to identify the natural persons who controlled 10 per cent or more of a legal entity.

42. Malaysia indicated that under the Securities Industry (Central Depositories) Act 1991 (Act 453), the term "beneficial owner", in relation to deposited securities, was defined as the ultimate owner of the deposited securities, which was the person who was entitled to all rights, benefits, powers and privileges and was subject to all liabilities, duties and obligations in respect of, or arising from, the deposited securities, which did not include a nominee of any description.

43. The Czech Republic reported that if there was no identifiable beneficial owner based on the percentage of ownership or control, then an obligation arose to identify the natural person with the greatest element of control of an entity. Anonymous transactions were forbidden in any relationships, including an agreement to establish an account, to use a safety deposit box or to make various forms of deposit. Customer identification was performed based on the official identity card issued by the appropriate state authority only and officials were trained to recognize fake documents. Customer due diligence and the creation of a risk profile were performed at the beginning of the business relationship. Pursuant to the anti-money-laundering act and other legislation, anonymous transactions are prohibited in one-off transactions of 1,000 euros or more. Exceptions are permitted only in accordance with the simplified customer due diligence principles established by the FATF Recommendations.

44. In the Czech Republic, the Financial Analytical Unit of the Ministry of Finance issued guidance related to the amendments to Act No. 253/2008 Coll., on Selected Measures against Legitimisation of Proceeds of Crime and Financing of Terrorism (the AML Act), that have been effective from 2014. The guidance has been published on its website. This guidance included detailed instructions for "obliged entities" on how to identify the beneficial owner of the client and how to detect and identify silent partners which might amount to beneficial ownership. The guidelines further set out an obligation to trace the beneficial owner to the specific natural person according to the amended FATF Recommendations.

45. Uruguay referred to a legislative reform obliging to identify shareholders of national entities. Pursuant to the new legislation, Law No. 18.930 enacted on 17 July 2012, the Central Bank of Uruguay maintained a registry in order to identify the holders of bearer shares issued by corporations, limited joint-stock partnerships, agricultural associations and other entities such as trusts not controlled by the Central Bank of Uruguay. Foreign entities that were permanently established in the country or that had management offices in Uruguay were also required to report to the registry of the Central Bank even when their ordinary shares are registered identifying the share-holder.

Record-keeping

46. Several countries reported on their requirements for record keeping indicating that client and transaction records had to be kept for a specified minimum period of time. For example, according to the anti-money-laundering and counter-terrorist financing law of the Republic of Moldova, financial institutions were required to keep records of identification information and documents of natural persons, legal persons and their beneficial owners, and historical records of accounts and primary documents, including business correspondence, for a period of least five years after the business relationship ended or the bank account was closed. Upon the request of a supervisory authority, the reporting entities could be required to extend the record-keeping period.

47. In Oman, financial institutions, non-financial businesses and professions, and non-profit associations and bodies were required to retain records, documents, information and data relating to the identity of clients and beneficiaries and their activities, as well as a transaction log in accordance with the provisions of the Law of Anti-Money Laundering and Combating the Financing of Terrorism issued by Royal Decree No. 79/2010. Such records should be retained for a period of ten years commencing from the date of the transaction, the closing of an account or the end of a business relationship, whichever is the later. Upon request, these records and documents should be provided to the judicial authorities.

Mechanisms for the reporting of suspicious transactions

48. All States parties reported that they have put in place a system requiring institutions to report suspicious transactions to the financial intelligence unit or another designated agency.

49. Kuwait indicated that, in an effort to tighten regulations on suspicious transactions, financial institutions and specified non-financial businesses and professions were required to inform the Kuwaiti financial intelligence unit, within a maximum of two working days, of any transaction or attempted transaction, regardless of its value, if it was suspected to involve criminal proceeds, money-laundering, terrorism financing or could be used to carry out such actions.

50. Cyprus stressed the importance of training employees of reporting entities covered by the AML/CFT law on the recognition and handling of transactions suspected to be associated with money-laundering and the financing of terrorism.

51. In a similar vein, Turkey reported that its financial intelligence unit organized 10 training activities for "obliged groups" which were attended by 566 participants. In addition to training activities, the financial intelligence unit prepared guidelines

and brochures for the obliged parties, organized annual meetings with the compliance officers of financial institutions and provided feedback about the quality, quantity and trends of suspicious transaction reports as well as examples of good practice.

52. Many countries reported that they had legislation that overrode banking secrecy laws to require financial institutions to report suspicious transactions.[11] In order to improve access to banking information by intelligence and investigative agencies authorized to conduct operational and search activities, the General Prosecutor's Office of the Russian Federation had developed a draft law that would allow officials of such bodies, based on a court order, to request information from banking institutions on transactions and accounts of legal persons and individual entrepreneurs, as well as of natural persons.

Cross-border movement of cash and negotiable instruments

53. The Convention recommends that States parties adopt a declaration system requiring all persons physically transporting cash or designated negotiable instruments across a border to submit a declaration to the designated competent authorities. The majority of the States parties reported that they have adopted such measures to detect and monitor the cross-border movement of cash as well as of "appropriate negotiable instruments".

54. The Philippines, for example, indicated that it had such a cross-border declaration requirement. In order to ensure its effective implementation, a Memorandum of Agreement was signed on 17 January 2005 between relevant national authorities including the Central Bank of the Philippines, the Anti-Money Laundering Council, the Bureau of Customs, the Manila International Airport Authority, the Philippine National Police, the Bureau of Immigration and the Air Transportation Office (now the Civil Aviation Authority of the Philippines). Under the terms of the agreement, the parties were to adopt measures to monitor and detect the physical cross-border transport of currency and bearer negotiable instruments, including a declaration system or other disclosure obligations.

55. Similarly, the Republic of Moldova explained that the import and export of currency and cheques above a threshold of the equivalent of 10,000 euros was subject to mandatory declaration to customs authorities. According to the provisions of AML/CFT Law, the Customs Service is required to provide the Office for Prevention and Control of Money Laundering with all the information on the currency declarations (with the exception of banking cards) made at the border by natural and legal persons in accordance with articles 33 and 34 of the Law no. 62/XVI of 21 March 2008 on the regulation of currency. The Customs Service was further required to inform Office within 24 hours of any information linked to identified cases of introduction of foreign currency and/or illegal carriage of currency.

56. Argentina noted that its financial intelligence unit regularly participates in cross-border currency transfer controls performed jointly with member States of the Financial Action Task Force of Latin America (GAFILAT). In this regard, under the

[11] See also paras. 1-3 of article 52 of the Convention, on the prevention and detection of transfers of proceeds of crime.

XII Exercise of Intensified Monitoring of Border Transfers of Cash and Negotiable Instruments held on 4 and 5 May 2015 under the coordination of the Argentinian financial intelligence unit, two gold bars weighing two kilograms each, 854,900 Argentine pesos in cash, $89,410 in cash and 13 kilograms of cocaine were all seized.

57. In 2007, Belgium introduced an obligation to declare cross-border movements of cash or bearer instruments in excess of 10,000 euros. For cross-border movements in and out of the European Union, the declaration is mandatory. In the case of cross-border movements within the European Union, the declaration should be done upon request of a competent authority, such as customs or the police.

58. In Algeria, the declaration was required for any cross-border movement of cash in excess of 7,000 euros. In Egypt and Palestine, it was reported that the Customs Department has the authority to seize funds in case of a false declaration or where it is suspected that funds relate to a money-laundering offence.

Electronic money transfers

59. To address issues concerning the identification of remitters and beneficiaries and the traceability of transactions, several countries highlighted measures that had been adopted to ensure that electronic transfer systems were subjected to the same level of scrutiny as other financial transactions.

60. Kuwait, for example, reported that it required financial institutions carrying out cross-border electronic transfers to gather accurate information on the party ordering the transfer, the beneficiary and all related messages, and to ensure that such information is maintained throughout all the stages of the payment process. The information attached to all the electronic transfers should include the following: full name, number of the account, address of the party ordering the transfer, the name and identification number or place and date of birth of the beneficiary and the account number used for the transaction. Kuwait also required financial institutions that are party to domestic electronic transfers to ensure that the message related to the payment process contained information on the party ordering the transfer. Lastly, Kuwait stated that financial institutions should monitor electronic transfers in order to identify transfers that did not contain information on the party ordering the transfer or the beneficiary and to take appropriate measures where this occurs.

61. Argentina reported that it required money remittance companies to update the data obtained for completing customer identification when unusual transactions were detected, when major transactions were conducted, when there were relatively major changes in the client modus operandi, when there was a suspicion of money-laundering and/or terrorist financing and/or when, within the risk parameters adopted by the regulated entity, the update was considered necessary.

62. In Mexico, banks, money transmitters, brokerages, exchange offices and popular credit and savings institutions were obliged to report monthly all transfers of amounts equal to or greater than $1,000 or its equivalent in the currency in which the transfer was made. It was reported that these institutions were further required to submit a quarterly report for each purchase transaction, receipt of deposit, receipt of payment of loans or services or transfers of funds in cash using United States dollars for amounts equal to or greater than $500 for known customers or $250 in the case of occasional users. Mexico further identified challenges faced in providing

oversight to the manner in which some banks and obliged reporting entities implemented measures to prevent money-laundering.

C. Measures adopted by States to consider or establish financial intelligence units

63. All States parties reported that they had established financial intelligence units to collect, analyse and exchange relevant information in accordance with their laws. The structures, responsibilities, functions, departmental affiliations and independence of such units varied and States have adopted models that best suit their legal, constitutional and administrative arrangements. In some countries, the financial intelligence unit was purely administrative in that it focused on collation, analysis, and distribution of intelligence and information. In other cases, it was reported that the financial intelligence unit had the authority to carry out investigations and might even be able to prosecute or to seize and freeze assets.

64. In Austria, the Austrian Financial Intelligence Unit, established by the Criminal Intelligence Service Act, had a dual function as the central investigation department within the country's anti-money-laundering/counter-terrorist financing system. It was reported that the unit served as national centre for the receipt, analysis and dissemination of suspicious transaction reports transmitted by reporting entities and other information relevant to money-laundering, associated predicate offences and terrorist financing and was also the central department responsible for fighting money-laundering in Austria.

65. The Republic of Moldova indicated that its financial intelligence unit, the Office for Prevention and Control of Money Laundering, while situated within the operational structure of the National Anti-Corruption Centre, was established by the AML/CFT Law as an independent subdivision with clearly distinct powers and functions. In particular, these functions included the prevention and detection of money-laundering and financing of terrorism, the preparation and implementation of policies and strategies on the prevention and detection of money-laundering and financing of terrorism and the implementation of applicable international standards.

66. In Malaysia, the Financial Intelligence Unit was established within the Financial Intelligence and Enforcement Department of the Central Bank to manage and provide comprehensive analysis on financial intelligence relating to money-laundering and terrorist financing. The financial intelligence received might come from suspicious and covered transaction reports received from reporting institutions, local law enforcement agencies and foreign financial intelligence units. It was reported that the financial intelligence information was then disseminated to the respective law enforcement agencies for further action.

Anti-money-laundering networks

67. In accordance with article 58 of the Convention, at the international level, the crucial agency for exchanging financial information is usually the financial intelligence unit. States reported that their financial intelligence units exchanged information on the basis of reciprocity or through bilateral or regional agreements. Such agreements usually further encourage spontaneous cooperation such as the transmission of relevant information without prior request.

68. Most States parties reported that their financial intelligence units were members of the Egmont Group of Financial Intelligence Units. The Egmont Group is an international organization that works to foster the development of financial intelligence units and meets regularly to encourage cooperation between financial intelligence units, especially in the areas of information exchange, training, and the sharing of expertise.

69. Several States noted the added value of participating in international fora such as the Financial Action Task Force (FATF) and the FATF-style regional bodies.[12]

70. In the context of these networks, Belgium highlighted that it gave trainings on a regular basis to the financial intelligence units of member States of the Inter-Governmental Action Group against Money Laundering in West Africa (GIABA). Similarly, with the aim of promoting bilateral cooperation, Portugal stated that it supported the Portuguese-speaking countries with training activities, translation of legislation, preparation of legislation, and the establishment and further development of financial intelligence units. Mexico also indicated that it was providing technical assistance to members of the Caribbean Financial Action Task Force (CFATF).

71. The Czech Republic noted that its financial intelligence unit received technical assistance from the FIU.NET Bureau and had become part of the FIU.NET network. FIU.NET is a decentralized computer network supporting the financial intelligence units in the European Union in their fight against money-laundering and terrorist financing.

72. In Lebanon, the financial intelligence unit was reported to be the sole authority which could exchange banking information on the international level in accordance with the law. Lebanon further stated that its financial intelligence unit was a member of Egmont Group and its Secretary had recently been elected as the Middle East and North African regional representative to the Group.

73. Egypt reported that its financial intelligence unit was a member of the Egmont Group since 2004 and had played a key role in this body through its membership in the Outreach Working Group and the Legal Working Group. It had also sponsored a number of financial intelligence units to become members of the Group.

74. The Republic of Moldova indicated it was a member of the Council of Europe Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL). Likewise, Armenia also indicated it was a member of MONEYVAL and maintained observer status within the Euroasian Group on Combating Money Laundering and Terrorism Financing (EAG). Armenia has also been a member of the Egmont Group since 2007.

[12] The Asia/Pacific Group on Money Laundering (APG), the Caribbean Financial Action Task Force (CFATF), the Council of Europe Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL), the Eurasian Group (EAG), the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG), the Financial Action Task Force of Latin America (GAFILAT), the Inter-Governmental Action Group against Money Laundering in West Africa (GIABA), or the Middle East and North Africa Financial Action Task Force (MENAFATF).

D. Measures demonstrating the use of mutual legal assistance and administrative or judicial cooperation in cases of money-laundering among law enforcement, judicial authorities and financial regulatory authorities

75. Many States reported that a central component of efforts to cooperate by exchanging information in many States had been to conclude memorandums of understanding that enabled their respective financial intelligence units to expeditiously exchange information among each other or through regional networks. Some States parties that provided contributions to this report, including Argentina, the Philippines and Turkey, listed a number of financial intelligence units with whom they exchange information. Several States parties, such as Argentina, Armenia, Austria, Honduras, Lebanon, Malaysia, the Philippines, the Republic of Moldova, Spain, Switzerland, Turkey and the United States, also noted that they exchange information through anti-money-laundering networks such as the Egmont Group, GAFILAT, the Eurasian Group and MONEYVAL.

76. For instance, Turkey reported that its financial intelligence unit had signed 48 memorandums of agreement with peer agencies. It was also a member of the Egmont Group and provided information through the safe network administered by Egmont (ESW). Turkey reported that the exchange of information between its financial intelligence unit and its foreign counterparts occurred without any major coordination challenges while using ESW platform.

77. The Swiss financial intelligence unit was reported to be a member of the Egmont Group and noted that it could directly and quickly exchange financial information with its foreign counterparts.

78. In the United States, the Financial Crimes Enforcement Network exchanged information with financial intelligence unit counterparts through the Egmont Group. It was reported that it was also a member of the Financial Action Task Force and participated in FATF-style regional bodies.

79. The Austrian financial intelligence unit reported that it exchanged information with peer financial intelligence units using ESW, FIU.NET as well as INTERPOL and Europol channels, avoiding involvement of third parties.

80. Portugal indicated that its financial intelligence unit cooperated directly with financial intelligence units counterparts. Likewise, the Criminal Police may cooperate with peer police agencies through memorandums of understanding and police channels such as Europol and INTERPOL. The judiciary, for its part, provided international cooperation within the framework of mutual legal assistance as regulated by law.

81. In Argentina, the financial intelligence unit was part of information exchange networks, primarily GAFILAT and the Egmont Group. The unit had also signed memorandums of understanding with 29 financial intelligence units in Latin America, Europe, Asia and Oceania. Argentina noted that further international cooperation in anti-money-laundering was provided through the framework of multilateral United Nations treaties, including the Convention against Corruption.

82. Spain indicated that its financial intelligence unit regularly exchanged information and intelligence with 42 agencies on asset recovery within the European Union and with Iberoamerican countries.

83. Honduras was reported to be a member of the Egmont Group and it had signed memorandums of agreement with 19 countries, primarily in the Americas. In addition, Honduras noted that its legislation allowed the financial intelligence unit to support and provide assistance to other peer financial intelligence units on anti-money-laundering.

84. In Algeria, the FIU was allowed by law to communicate with foreign FIUs. This country also reported that it provided international cooperation on the basis of multilateral treaties, including the Convention against Corruption, and on the basis of recommendations from FATF. A number of countries, including Armenia, Belgium, the Czech Republic, the Republic of Moldova and Turkey, provided statistical information on the number of requests for cooperation sought and the number of requests received. Additionally, the Czech Republic provided statistics on the number of times that spontaneous information on money-laundering was received from abroad as well as the number of times that spontaneous information was provided by the Czech financial intelligence unit to foreign peer financial intelligence units. According to the data provided, the number of exchanges of spontaneous information represented more than half of the number of official financial intelligence unit requests received and requested.

85. Some States also informed that they cooperate in the forms of mutual legal assistance, extradition and transfer of prisons, on the basis of bilateral and multilateral agreements, including the Convention against Corruption, and on the basis of reciprocity. Kuwait, for example, noted that it provided mutual legal assistance on the basis of reciprocity and on the basis of bilateral and multilateral agreements. El Salvador, for its part, noted that the country provided mutual legal assistance on the basis of bilateral and multilateral treaties, including the Convention against Corruption.

86. In the case of the Republic of Moldova, it was reported that the financial intelligence unit provided cooperation, including the transmission of spontaneous information, to peer financial intelligence units. This State also submitted statistical information on mutual legal assistance and extradition cases for offences of money-laundering.

87. Ecuador reported that in order to strengthen the procedures for international cooperation in criminal matters, it had developed a module for international criminal assistance, consisting of a procedural manual to guide criminal justice officials in processing requests for international assistance in a timely manner. It had further implemented an information technology based system to enhance oversight and standardize procedures.

E. Coordination challenges among relevant agencies responsible for combating money-laundering with regard to monitoring compliance concerning global, regional and bilateral cooperation

88. A number of States parties, including Chile, Honduras, Lebanon, Mexico and Turkey, referred specifically to coordination challenges. These challenges included coordination among agencies, ensuring quality standards and the varying times of response from country to country. Other challenges identified were insufficient financial and human resources to train operational staff involved in the procedures of exchanging information at the global, regional and bilateral level.

89. For instance, Honduras noted that there was a need for the organizations facilitating coordination to join efforts and issue unified standards to facilitate the effective implementation of standards by States. Honduras highlighted that this would result in a larger and improved regional and global coordination among peer agencies.

90. Lebanon highlighted that delays in necessary legislative reform also posed challenges in combatting money-laundering.

91. Mexico noted some challenges in the coordination among anti-money-laundering agencies in providing cooperation at bilateral, regional and global levels. It also referred to the fact that limited financial and technical capacity of anti-money-laundering agencies impaired effective cooperation.

92. Turkey overcame challenges in ensuring secure communication by improving its information technology systems and capacities. This in turn improved managerial capacity, allowing for uninterrupted service, easier management and the efficient use of resources. For instance, as a result of implementing an integrated financial intelligence system, Turkey reported that the analysis of data had become more efficient.

93. Chile, for its part, mentioned the development of a national anti-money-laundering strategy to strengthen its national framework. Chile suggested that countries should consider publishing statistics on responses and consultations received so as to minimize cases where responses were not made or were of low quality. It also noted the need to clearly identify a focal point available at any time to handle requests for cooperation and exchange of information.

94. Chile further identified challenges arising from the diverse standards in the application of preventive anti-money-laundering measures by obliged entities. As possible actions to overcome existing challenges, Chile suggested strengthening the networking among the different entities with supervisory functions and improving the transfer of expertise in procedures, alert signals and statistics on suspicion transaction reports.

III. Conclusions and recommendations

95. The submissions provided by States parties ahead of the meeting of the Working Group clearly demonstrate that States are already familiar with the relevant implementation measures in relation to article 14 of the Convention and the

knowledge base of States when considering whether they have met the requirements of the Convention is at an advanced state. The submissions provided by States parties also show sound experience in exchange of information among financial intelligence units.

96. In preparation for the next implementation review cycle, States parties may wish to discuss how to review the provisions of article 14. Those States parties who have been active in assessing their implementation of chapters II or V of the Convention may wish to share their experiences with regard to article 14 in order to enrich and inform the discussion.

97. Article 52 of the Convention builds on the prevention measures of chapter II of the Convention, especially those of article 14, paragraph 1 (a), which requires States parties to institute a comprehensive domestic regulatory and supervisory regime for banks and non-bank financial institutions that has requirements for the identification of customers and beneficial owners, record-keeping and the reporting of suspicious transactions, in order to deter and detect all forms of money-laundering. In this regard, States parties may wish to discuss how to link the review of article 14 with the review of article 52 of the Convention.

98. The Working Group may also wish to consider discussing possible measures to further strengthen coordination among relevant agencies responsible for combating money-laundering with regard to monitoring compliance concerning global, regional and bilateral cooperation.

99. Finally, the Working Group may wish to request UNODC to continue its efforts to gather information on good practices in relation to measures to prevent money-laundering.

100. In order to continue this process of mutual learning, States are encouraged to provide further updates and present new initiatives in the areas of discussion at the Working Group.